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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 April 1998, at 10 a.m.

Chairman: Mr. SELEBI (South Africa)

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The meeting was called to order at 10 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (agenda item 15) (continued) (E/CN.4/1998/L.47)

Draft decision on the question of human rights and states of emergency (E/CN.4/1998/L.47)

1. Mr. van RIJSSEN (Observer for the Netherlands), introducing the draft decision, said that, after consultations, agreement had been reached on a slightly revised text. It had been decided that it was not necessary to have a yearly update of the list of states of emergency and that the list need not include data of a merely historical nature. The operative part of the paragraph should thus read: "decides to request the Office of the High Commissioner for Human Rights to submit to the Sub-Commission, at its fifty-first session and thereafter every second year, a list of States in which a state of emergency was proclaimed or has been retained during the reporting period".

2. The draft decision, as orally revised, was adopted.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

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(agenda item 8) (continued) (E/CN.4/1998/2-E/CN.4/Sub.2/1997/50, chap. I, draft decision 6)

3. The CHAIRMAN said he took it that draft decision 6, recommended by the Sub-Commission, on the question of human rights and states of emergency had been superseded by the adoption of the draft decision contained in document E/CN.4/1998/L.47.

4. It was so decided.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 10) (continued) (E/CN.4/1998/L.78, L.80, L.81/Rev.1, L.83, L.85, L.86, L.87, L.88, L.89)

Draft resolution on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1998/L.78)

5. Ms. GLOVER (United Kingdom), introducing the draft resolution on behalf of the European Union and their sponsors, said that there had been major changes in the Democratic Republic of the Congo over the previous year and she welcomed the expressed commitment by the Government of that country to an early return to democracy and the rule of law after decades of misrule in which human rights had been seriously violated.

6. The sponsors were, however, very concerned that serious violations of human rights and fundamental freedoms continued, as was clear from the report of the Special Rapporteur, and they looked to the Government of the Democratic Republic of the Congo for an unambiguous political and practical commitment to restore, protect and promote human rights and fundamental freedoms. That must include a full coming to terms with the very serious allegations arising from the 1997 conflict in the east of the country so that the cycle of impunity and reprisals could be broken.

7. The sponsors were deeply disappointed that a lack of cooperation and other obstacles, in particular the harassment and intimidation of witnesses, had led to the withdrawal of the Secretary-General's Investigative Team, but they looked forward to seeing the outcome of its work and hoped that it would provide a basis for appropriate action by the Government of the Democratic Republic of the Congo and others concerned to address the allegations in question.

8. The sponsors welcomed the work of the Office of the United Nations High Commissioner for Human Rights in Kinshasa, and hoped that it would receive strong support from the international community in pursuing its work. The draft resolution also renewed the mandate of the Special Rapporteur, requested him to report on the possibilities for the international community to assist with local capacity-building and called on the Government of the Democratic Republic of the Congo to cooperate fully with him.

9. The sponsors were grateful to the delegation of the Democratic Republic of the Congo for having participated constructively in negotiations on the draft resolution which, it was hoped, would receive wide support.

10. Mrs. KLEIN (Secretary of the Commission) said that the delegation of the United States of America and the observer for Norway had become sponsors of the draft resolution.

11. Ms. KABAMBA (Democratic Republic of the Congo), speaking in explanation of vote before the voting, thanked the delegations that had participated in the negotiations but said that her delegation would have great difficulty in voting for the draft resolution, or joining a consensus on it, because it unfortunately reflected none of the explanations her Government had provided regarding the incidents that had led to the withdrawal of the Secretary-General's Investigative Team.

12. Her Government was not hostile to the United Nations but it could not accept the clumsy behaviour of certain persons acting under a United Nations mandate. It welcomed the atmosphere of dialogue in which the negotiations had been conducted, which had enabled a number of misunderstandings and prejudices to be laid to rest, being convinced that dialogue which respected the dignity of all was the surest way of promoting human rights.

13. Mr. COMBA (Office of the High Commissioner for Human Rights) said that a provision of approximately US$ 130,000 to cover activities related to the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo in 1998-1999 had been included under section 22 of the programme budget for the current biennium.

14. At the request of the representative of the Democratic Republic of the Congo, a vote was taken by roll-call on the draft resolution.

15. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Brazil, Canada, Cape Verde, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Peru, Poland, Republic of Korea, Russian Federation, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: China, Congo, Cuba, Democratic Republic of the Congo, Indonesia, Rwanda, Uganda.

Abstaining: Bangladesh, Bhutan, Botswana, Guinea, India, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Pakistan, Philippines, Senegal, Sri Lanka, Sudan, Tunisia.

16. The draft resolution was adopted by 28 votes to 7, with 18 abstentions.

Draft resolution on the human rights situation in southern Lebanon and West Bakaa (E/CN.4/1998/L.80)

17. Mr. BAATI (Tunisia), introducing the draft resolution, said that, in the first line of the penultimate preambular paragraph, the words "handed down" should be replaced by the words "made public".

18. Mrs. KLEIN (Secretary of the Commission) said that the delegation of Pakistan had become a sponsor of the draft resolution.

19. The CHAIRMAN said he had the impression that the delegation of the United States of America wished the draft resolution to be put to the vote.

20. At the request of the representative of Tunisia, the vote was taken by roll-call.

21. Poland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Belarus, Bhutan, Botswana, Brazil, Canada, Cape Verde, Chile, China, Congo, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Guinea, India, Indonesia, Ireland, Italy, Japan, Luxembourg, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: United States of America.

Abstaining: None.

22. The draft resolution was adopted by 52 votes to 1.

Draft resolution on the situation of human rights in Myanmar (E/CN.4/1998/L.81/Rev.1)

23. Ms. GLOVER (United Kingdom), introducing the draft resolution on behalf of the European Union and other sponsors, said that, in his latest report to the Commission, the Special Rapporteur on the situation of human rights in Myanmar concluded that there had been no improvement apart from a very limited easing of some of the wide-ranging restrictions on political parties. Human rights violations continued to occur in a power structure which was autocratic and accountable only to itself and rested on the denial and repression of fundamental rights, despite the dissolution in November 1997 of the State Law and Order Restoration Council and its replacement by the State Peace and Development Council.

24. The draft resolution drew attention to a wide range of human rights violations reported by the Special Rapporteur and documented by many others, including violations of the right to life, torture, arbitrary arrest and detention, severe restrictions on the freedom of opinion, expression and assembly, oppressive measures directed at ethnic and religious minorities, and violations of the rights of women and children. The Government of Myanmar continued to deny the Special Rapporteur the opportunity to visit Myanmar although it was more than two years since he had taken up his appointment.

25. The draft resolution called on the Government of Myanmar to cooperate fully and unreservedly with the relevant mechanisms of the Commission, in particular with the Special Rapporteur, and to allow him access to Myanmar to enable him to discharge his mandate fully. It welcomed the continuing good

offices efforts of the Secretary-General and the fact that his Special Envoy had been able to visit Myanmar twice in the past year, while regretting that those contacts had yet to produce progress towards meeting the concerns repeatedly raised by the Commission.

26. Mrs. KLEIN (Secretary of the Commission) said that the observer for Costa Rica had become a sponsor of the draft resolution.

27. U AYE (Observer for Myanmar) said that the draft resolution was a patchwork attempt to revive allegations that had long lost their meaning and had been proved untrue. A handful of sponsors harbouring extreme views and refusing to comprehend developments in Myanmar and place them in their proper perspective had invented a draft resolution based on misinformation and unproven allegations, provided by anti-Government groups; they had done so with ulterior political motives to undo the progress being achieved in all areas of life in Myanmar.

28. Allegations in the draft resolution of harassment and restrictions of political parties were completely false. The Government had, in fact, encouraged the formation of the multitude of political parties that legally existed and were peacefully pursuing their activities. Only when a handful of individuals disrupted or attempted to disrupt those peaceful activities were they requested to refrain from confrontation and to desist from infringing the law.

29. The draft resolution called into question the judicial system in Myanmar, which was impartial and had been developed over the centuries. Myanmar's criminal and civil codes and its court procedures were second to none. Those in positions of responsibility continued to follow both the letter and the spirit of the law. Myanmar did not condone any violation of human rights and the reasons for the fictitious charges of supposed violations, which no doubt originated from areas where insurgents were operating, were self-evident and unworthy of comment.

30. The draft resolution also contained unfair criticism of the Myanmar armed forces, which had provided leadership in regaining, protecting and preserving Myanmar's independence and sovereignty and throwing off the shackles of colonial domination. The armed forces strictly adhered to their code of conduct and were subject to civil and criminal procedures for any misconduct.

31. Myanmar was a union of 135 national races, and to pretend, as the draft resolution did, that any one political party or individual represented the entire country was unacceptable. Any differences must necessarily be resolved by the inhabitants of a country and not by interference and imposition from outsiders and their expatriate followers who had long lost touch with reality. Experience had shown that foreign meddling in domestic affairs had always resulted in untold suffering for the people concerned and was, moreover, not in conformity with article 2 (7) of the Charter of the United Nations.

32. The process of the National Convention was the most appropriate forum for all the people of Myanmar to gather together and collectively shape their future: it was a nationwide undertaking encompassing representatives from all

the national races, political parties and strata of society. That certain elements within the National League for Democracy (NLD) had influenced their party to withdraw from the National Convention was the fault of none other than that party itself.

33. The major root cause of Myanmar's afflictions was the "divide and rule" policy practised by the colonialists whose consequences were still being suffered. The crude and unprofessional draft resolution, designed to exert pressure, was an outrageous provocation; his delegation dissociated itself from it and strongly rejected the negative elements it contained. It was not a draft resolution relating to human rights and presented in the interests of Myanmar and its people; it was a mischievous political exercise designed to appease domestic constituents in a handful of countries.

34. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, if adopted, the draft resolution would renew the mandate of the Special Rapporteur for a period of one year. A sum of US$ 79,100 to cover the Special Rapporteur's activities had been allocated under section 22 of the programme budget for the biennium 1998-1999.

35. The draft resolution was adopted.

Draft resolution on the situation of human rights in Nigeria
(E/CN.4/1998/L.83)

36. Ms. GLOVER (United Kingdom), introducing the draft resolution on behalf of the European Union and other sponsors, said she deplored Nigeria's refusal to allow the Special Rapporteur to visit the country and its failure to respond to his requests for information and comments. The sponsors shared the Special Rapporteur's assessment that there had been extensive human rights violations in Nigeria despite some changes made by the Government.

37. They were disappointed that, despite the Pope's recent appeals, no political detainees or trade unionists had been released under the amnesty declared in November 1997 by General Abacha. On the contrary, more journalists and pro-democracy activists had been detained and several pro-democracy rallies had recently been broken up by force.

38. The sponsors were also concerned about the health of prisoners serving long sentences for their involvement in the 1995 alleged coup plot. The 20 Ogoni detainees facing the same charges as Mr. Saro-Wiwa should either be brought to trial or released forthwith. In January 1998, some 100 Ogonis had reportedly been detained, one Ogoni detainee had died in custody and a woman had been killed when the River State Internal Security Task Force had fired into a crowd during an Ogoni Day event.

39. The sponsors regretted the Nigerian Government's decision to cancel the presidential elections due in August and hold a referendum instead. It was difficult to see how an election in which only a single candidate was put forward by all five government-sponsored parties could be judged free or fair.

40. She agreed with the Nigerian Minister for Foreign Affairs that a confrontational approach was not productive and noted that other African

countries enjoyed a good relationship with the United Nations human rights mechanisms, including the Commission's special rapporteurs. It was regrettable, therefore, that Nigeria had spurned such an approach, rebutting all attempts to discuss the Commission's concerns in a constructive manner.

41. If the draft resolution was put to the vote, which she hoped would not prove necessary, she requested a roll-call vote.

42. Mrs. KLEIN (Secretary of the Commission) said that the delegation of the United States and the observers for New Zealand and Norway had become sponsors of the draft resolution.

43. Mr. USMAN (Observer for Nigeria) said that the Minister for Foreign Affairs of Nigeria had presented his Government's position to the Commission the previous week. The draft resolution was seriously flawed since it failed to respect the principle of non-selectivity, objectivity and impartiality. A few powerful countries were using subjective human rights criteria to malign others and to project their narrow foreign policy objectives instead of seeking to influence political leaders through consultation and dialogue. He appealed to those countries to adopt a more flexible and realistic posture and urged the members of the Commission to reject the draft resolution.

44. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, if adopted, the draft resolution would renew the mandate of the Special Rapporteur for a period of one year. Financial provisions to cover the Special Rapporteur's activities had been included under section 22 of the programme budget for the biennium 1998-1999.

45. Mr. ACEMAH (Uganda), speaking in explanation of vote before the voting, said that his delegation would vote in favour of the draft resolution because Nigeria's enormous potential would never be fully realized under current conditions. The wisdom of that position would eventually become evident to all Nigerians. He appealed to the Government of Nigeria to allow the Special Rapporteur to visit the country so that he could fully discharge his responsibilities.

46. Mr. CAMARA (Guinea) commended Nigeria's contribution to the cause of human rights in Liberia and Sierra Leone. Together with the other countries of the Economic Community of West African States (ECOWAS), it had helped to restore to power the democratically elected President of Sierra Leone and to bring the peace process in Liberia to a successful conclusion.

47. The Minister for Foreign Affairs of Nigeria, in his address to the Commission, had described the current electoral process, the establishment of democratic institutions and other measures to guarantee the rule of law. The delegation of Guinea recognized the importance of tolerance and pluralism but it also understood that, where unity and territorial integrity were jeopardized by the acts of political elements, the State had the right and duty to crush any attempt at destabilization.

48. The Commission, when examining the situation in a particular country, must take account of prevailing circumstances and respect the principle of non-selectivity, impartiality and transparency. It should display flexibility

and avoid confrontation and the reports of its special rapporteurs should be objective. Consequently, if the draft resolution were put to the vote, his delegation would vote against it.

49. Mr. LIU Xinsheng (China) said that his delegation believed that the promotion and protection of human rights was the responsibility of Governments acting in the light of the circumstances prevailing in their own countries. The Nigerian Government and people and the countries of Africa were best qualified to speak on the subject addressed in the draft resolution, which, far from promoting human rights in Nigeria, would produce the opposite effect. If it were put to the vote, his delegation would vote against it.

50. At the request of the representatives of the United Kingdom and Senegal, a vote was taken by roll-call on the draft resolution.

51. The United Kingdom, having been drawn by lot by the Chairman, was called upon to vote first:

In favour: Argentina, Austria, Belarus, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Peru, Poland, Republic of Korea, Russian Federation, South Africa, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: China, Congo, Cuba, Guinea, Indonesia, Mali, Pakistan, Rwanda, Sudan.

Abstaining: Bangladesh, Bhutan, Botswana, Cape Verde, Democratic Republic of the Congo, India, Madagascar, Malaysia, Mexico, Morocco, Mozambique, Nepal, Philippines, Senegal, Sri Lanka, Tunisia.

52. The draft resolution was adopted by 28 votes to 9, with 16 abstentions.

Draft resolution on the situation of human rights in Iraq (E/CN.4/1998/L.85)

53. Ms. GLOVER (United Kingdom), introducing the draft resolution on behalf of the European Union and other sponsors, said that the human rights situation in Iraq regrettably showed no sign of improvement. She therefore called for wide support for the draft resolution. If a vote were taken, she requested that it should be by roll-call.

54. Mrs. KLEIN (Secretary of the Commission) said that the observers for Costa Rica and Slovakia had become sponsors of the draft resolution.

55. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, if adopted, the draft resolution would renew the mandate of the Special Rapporteur for a period of one year. A sum of approximately US$ 92,000 to cover the Special Rapporteur's activities had been allocated under section 22 of the programme budget for the biennium 1998-1999.

56. Mr. MIRGHANI (Sudan), speaking in explanation of vote before the voting, said that the draft resolution failed to present a balanced view of the human rights situation in Iraq and ignored positive developments since the previous year's resolution, for example the abrogation of certain punishments by Revolution Command Council Decree No. 81 of 1996. It also took no account of the adverse impact of sanctions on the human rights of the Iraqi people.

57. At the same time, his delegation strongly felt that the issue of missing Kuwaitis should be resolved to the satisfaction of all the parties concerned and trusted that Iraq would cooperate fully with the Tripartite Commission and other bodies to that end.

58. He requested a roll-call vote on the draft resolution.

59. Mr. RAZZOOQI (Observer for Kuwait) said that subparagraph (b) of the third preambular paragraph and paragraph 3 (g) and (k) concerning prisoners of war and missing persons were of special importance to his country. The reference to Security Council resolutions 686 (1991) and 687 (1991) in that connection was also extremely pertinent inasmuch as such resolutions, when adopted under Chapter VII of the Charter, had mandatory status. Moreover, the machinery for their implementation included both economic and other measures.

60. Mr. MALGUINOV (Russian Federation) said that the Commission's conclusions regarding the human rights situation in a particular State must be objective and take account of existing circumstances and recent developments. The draft resolution did not adequately reflect the situation in Iraq and the proposed amendments his delegation had transmitted to the sponsors had regrettably not been discussed in detail.

61. Paragraph 2 (a) expressed an unacceptably wholesale view regarding the situation in the country. The reference in paragraph 3 (h) to northern Iraq was inappropriate in view of the limited extent of government jurisdiction over that part of the country. Paragraph 3 (j) should mention the relatively intensive interaction between the Government of Iraq and humanitarian organizations. While fully supporting the remarks of the Observer for Kuwait and the work of the Trilateral Commission on missing persons, his delegation felt that paragraph 3 (k) failed to differentiate between foreigners who were prisoners of war and those who had been convicted of crimes. In commenting on the oil for humanitarian assistance programme in paragraph 3 (m), the Commission was encroaching on the fields of competence of other United Nations bodies.

62. In general, therefore, while his delegation agreed that there was considerable room for improvement in the human rights situation in Iraq and fully supported the Special Rapporteur, it requested a single separate roll-call vote on paragraph 2 (a) and paragraph 3 (h), (j), (k) and (m). His delegation would abstain from voting on those subparagraphs and vote in favour of the remainder of the draft resolution.

63. Mr. ALDURI (Observer for Iraq) said that the Commission's examination of the human rights situation in his country had failed to mention the ongoing violation of the human rights of the entire Iraqi population, as reported by other United Nations bodies, and many non-governmental organizations (NGOs).

Hunger and disease had claimed the lives of over 1.5 million people, equivalent to more than half the population of Kuwait, although the right to life was the supreme human right from which all others derived. Foremost among the victims were children, women and the elderly. Hospitals existed in name only and schools were losing their pupils.

64. Instead of drawing attention to that tragedy, the Special Rapporteur and the sponsors of the draft resolution persisted in imposing their politically slanted version of events, a version taken up by the sensationalist media. He hoped that the true defenders of human rights would unveil for the Commission the full extent of the tragedy in his country.

65. The impetus behind the draft resolution was politics, not concern for human rights, no attention being paid to the genocide or mass extermination taking place in Iraq. Human rights would be in crisis in any country suffering under an embargo; yet the same States which supported the embargo and the blockade supported the resolution. The Special Rapporteur, too, rather than helping Iraq, was working to perpetuate the embargo. In announcing a few days previously that Iraq had illegally exported oil to buy arms, he had fulfilled the role charted for him by the European Union.

66. Turning to the factual errors in the draft resolution, he said that there were no Kuwaiti detainees or prisoners of war, as asserted by the observer for Kuwait. Some persons were missing, but that applied to Iraqis as well. It was also untrue that political detainees were being executed. Despite all the difficulties it faced, the judicial system was still working well.

67. At the request of the representative of the Russian Federation, a vote was taken by roll-call on the retention of paragraphs 2 (a), 3 (h), 3 (j), 3 (k) and 3 (m) of the draft resolution.

68. Denmark, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Peru, Poland, Republic of Korea, Senegal, South Africa, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: None.

Abstaining: Bangladesh, Belarus, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Indonesia, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Pakistan, Philippines, Russian Federation, Rwanda, Sri Lanka, Sudan, Tunisia, Venezuela.

69. Paragraphs 2 (a), 3 (h), 3 (j), 3 (k) and 3 (n) were retained by 28 votes to none, with 24 abstentions.

70. At the request of the representatives of the Sudan and the United Kingdom, a vote was taken by roll-call on the draft resolution.

71. The Russian Federation, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Mexico, Peru, Poland, Republic of Korea, Russian Federation, Senegal, South Africa, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: Bangladesh, Cape Verde, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Indonesia, Madagascar, Malaysia, Mali, Morocco, Mozambique, Nepal, Pakistan, Philippines, Rwanda, Sri Lanka, Sudan, Tunisia.

72. The draft resolution was adopted by 32 votes to none, with 21 abstentions.

Draft resolution on the situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (E/CN.4/1998/L.86)

73. Ms. RUBIN (United States of America), introducing the draft resolution, said that two and a half years after the signing of the Dayton Peace Agreement there were definite signs of progress in Bosnia and Herzegovina. A great deal remained to be done, however, for the region to be rebuilt, for those who lost their homes to return in safety and for everybody to enjoy democracy and human rights. It was therefore distressing that abuses by governmental authorities continued in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia. Her delegation viewed the situation in Kosovo with particular concern.

74. The draft resolution focused on the future, while insisting that those responsible for past abuses, particularly war criminals, should be held accountable. It called attention to the problems of refugees, displaced persons, the lack of respect for fundamental freedoms, the restrictions imposed on the media and incomplete cooperation with the International Criminal Tribunal for the Former Yugoslavia. It expressed its appreciation to the former Special Rapporteur, welcomed the appointment of the new Special Rapporteur, and renewed his mandate.

75. All the Governments named in the draft resolution must redouble their efforts to protect all their citizens, to stop all violence and violations of human rights and to work towards a society in which the rule of law prevailed.

76. Mr. KUEHL (United States of America) read out a number of revisions, to be made to the draft resolution.

77. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Austria, Germany, Japan and Morocco and the observers for Albania, Australia, Belgium, Bosnia and Herzegovina, the Netherlands, New Zealand, Norway, Portugal, Slovakia, Spain, Sweden and the former Yugoslav Republic of Macedonia had become sponsors of the draft resolution.

78. Mr. FADZAN (Observer for Bosnia and Herzegovina) said that, while the draft resolution was generally positive, his delegation had expected more pressure to be exerted on those who violated human rights, prevented the return of refugees, failed to bring war criminals to justice and dragged their feet in the search for missing persons. There had been some progress, but it had been very slow. His delegation had decided to become a sponsor of the draft resolution in the interests of cooperation and of support for a bolder approach to implementing the Dayton Peace Agreement.

79. Mr. MALGUINOV (Russian Federation) said that, since the oral revisions to the text of the draft resolution were quite extensive, his delegation would prefer to take up the matter at the next meeting of the Commission when a revised draft text would be available.

80. Mr. BERNARD (France) said that his delegation would prefer to wait until the revised text was available in all languages.

81. The CHAIRMAN said that, in the circumstances, action on the draft resolution would be postponed.

Draft resolution on cooperation with representatives of United Nations Human Rights bodies (E/CN.4/1998/L.87)

82. Mr. DEKANY (Observer for Hungary), introducing the draft resolution, said that it reiterated the Commission's concern at the continued reports of intimidation and reprisals against private individuals and groups who sought to cooperate with the United Nations and the representatives of its human rights bodies. He hoped that it could be adopted without a vote.

83. Mrs. KLEIN (Secretary of the Commission) said that the delegation of El Salvador and the observers for Australia and the Dominican Republic had become sponsors of the draft resolution.

84. The draft resolution was adopted.

Draft resolution on the situation of human rights in the Sudan (E/CN.4/1998/L.88)

85. Ms. RUBIN (United States of America), introducing the draft resolution, said that the text represented an honest and sobering reflection of the facts of the situation in the Sudan and she hoped it could be adopted by consensus. The grievous conditions existing there must change. Sudan must act immediately on the recommendations contained in the draft resolution and in the report of the Special Rapporteur. It must allow access to all parts of the country and follow through on its promises to conduct or permit thorough investigations of possible human rights violations and then share those results with its own population and the Commission. The individuals

responsible for human rights violations must be held accountable and tried for their crimes under internationally acceptable standards and punished by the law.

86. Ms. JOHNSON (United States of America) said that a number of revisions should be made to the draft resolution. A new seventh preambular paragraph should be added to read:

> "Expressing concern that the Juba report issued by the Government of the Sudan does not satisfactorily clarify the question of the summary executions and reported extrajudicial killings, torture and arbitrary arrests which took place in the town of Juba in the summer of 1991."

87. The word "other" should be added before the word "cruel" in the fourth line of paragraph 10 and the existing text of paragraph 11 replaced by the following wording:

> "Welcomes the assistance the Government of the Sudan provided to the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees in the return of a group of abducted Ugandan children to their home country, and urges continued cooperation by the Government of the Sudan to achieve the return of the remaining abducted children;".

88. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Argentina, Austria, Ireland and Poland and the observers for the Netherlands, Slovakia and Sweden had become sponsors of the draft resolution.

89. Mr. COMBA (Office of the High Commissioner for Human Rights) said that the amount of US$ 65,000 that would be required to extend the mandate of the Special Rapporteur for a period of one year had been included in the human rights section of the programme budget for the biennium 1998-1999.

90. Mr. MIRGHANI (Sudan), speaking in explanation of vote before the voting, said that most of the human rights violations in his country were due to the civil war in the south. His Government had decided to address their root causes by negotiating a peace agreement, which had been accepted by eight out of nine rebel factions. It recognized the right of self-determination for the people of the south and had established a federal system for southern Sudan with 10 states. In March 1998, a new Constitution had been passed by the Federal Parliament which included a bill of rights covering all the rights contained in the International Covenants on Human Rights, including a multiparty system. On 30 April, a second round of negotiations was to begin between the Government and the last rebel faction in an effort to reach a peace agreement.

91. The draft resolution neglected, however, to mention any of those very important achievements since the Commission's last session, although his people and Government needed the Commission's recognition and support to make further progress. He urged the members of the Commission to vote against the draft resolution so as to help his country to continue in the right direction and to promote the forthcoming peace negotiations.

92. At the request of the representative of the Sudan, a roll-call vote was taken on the draft resolution.

93. Senegal, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Botswana, Brazil, Canada, Cape Verde, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Mexico, Peru, Poland, Republic of Korea, Russian Federation, South Africa, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: China, Cuba, India, Indonesia, Pakistan, Sudan.

Abstaining: Bangladesh, Bhutan, Congo, Democratic Republic of the Congo, Guinea, Madagascar, Malaysia, Mali, Morocco, Mozambique, Nepal, Philippines, Rwanda, Senegal, Sri Lanka, Tunisia.

94. The draft resolution was adopted by 31 votes to 6, with 16 abstentions.

Draft resolution on the situation of human rights in Cuba (E/CN.4/1998/L.89)

95. Ms. RUBIN (United States of America), speaking on behalf of the sponsors, requested that action on the draft resolution should be postponed, as more work was needed on the text.

96. Mr. AMAT FORES (Cuba) said that his delegation was opposed to any postponement of the vote on the draft resolution. Its text had been circulating among a number of delegations for over a month although it had never been negotiated. Its contents were known to all and postponement of action would not make negotiations possible. The only purpose of further delay would be to put pressure on Governments to secure their votes.

97. In the interests of rationalizing the work of the Commission, therefore, his delegation requested that the draft resolution be put to the vote immediately.

98. Mr. HYNES (Canada) said that, as a sponsor, his delegation supported the text of the draft resolution and was ready to vote in its favour at any time. It was also prepared to defer to the suggestion of the lead sponsor regarding the moment when, and indeed whether, the text should be brought before the Commission for action. In its desire to avoid the annual ritual confrontation over that draft resolution, his delegation had taken the initiative of inviting the delegation of Cuba to negotiate an alternative approach, an invitation which, unfortunately, had not been accepted. His delegation, which was prepared to pursue further consultations without ruling out any options, suggested that there should be a brief suspension of the meeting to consider the matter.

99. Mr. WANG Min (China) said that Cuba, the Member State concerned, was not in favour of postponing action and the Commission should respect its views.

100. Mr. de ICAZA (Mexico) said that, according to rule 42 of the rules of procedure, it was for the Chairman to decide whether action was to be taken on a draft resolution. It was his understanding that the Chairman had rejected the proposal to defer action, a decision which his delegation supported.

101. The CHAIRMAN said that, as Cuba, the country concerned, had requested a vote, the Commission would proceed to take action on the draft resolution.

102. Ms. DOMINGUEZ (United States of America), introducing the draft resolution, said that the situation of human rights in Cuba and its failure to cooperate with the Special Rapporteur had concerned the Commission for many years. Once again, the sponsors felt it necessary to draw attention to the Cuban Government's continued violation and disregard for fundamental freedoms. The draft resolution called on the Cuban Government to abide by its obligations as a Member State to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and elaborated in the Universal Declaration of Human Rights.

103. The release of almost 100 political prisoners was welcome, but the exile of some of them and the continued incarceration of hundreds of others for political activities remained a matter of concern. The draft resolution called on the Government of Cuba to release them and to reintegrate them into civil society.

104. The increased tolerance granted to some religious institutions was also welcomed and should be increased. The Government of Cuba was urged to ensure freedom of expression and of assembly and the freedom to demonstrate peacefully. Political parties, NGOs and other organizations of civil society must be allowed to function freely.

105. In conclusion, she urged the members of the Commission to give serious consideration to the draft resolution and to support efforts to protect and promote respect for the human rights and fundamental freedoms of the people of Cuba.

106. Mrs. KLEIN (Secretary of the Commission) said that the delegations of Japan and Poland and the observers for Albania, Lithuania, Portugal and Switzerland had become sponsors of the draft resolution.

107. Mr. COMBA (Office of the High Commissioner for Human Rights) said that the amount of US$ 43,000 required to extend the mandate of the Special Rapporteur for one year had been included in section 22 of the programme budget for the biennium 1998-1999.

108. Mr. MOLINA (Chile), speaking in explanation of vote before the voting, said that, in previous years, his delegation had voted in favour of the draft resolution on human rights in Cuba as a means of emphasizing its concern regarding respect for human rights and fundamental freedoms in that country, in particular freedom of assembly and freedom of expression. It had also expressed its concern at the way in which the situation in Cuba was being

addressed within the Commission as it had become evident that criteria relating to a long-standing bilateral ideological conflict had begun to take precedence over human rights violations of concern to the international community. That approach indicated an outdated view of international relations and had served only to harden the positions of the parties involved.

109. The recent visit by His Holiness the Pope to Cuba and the measures which the Cuban Government had taken in its aftermath were positive signs that should be continued and consolidated. They could be the beginnings of greater changes that would lead to a more substantive respect for human rights and fundamental freedoms in Cuba.

110. Consequently, without prejudice to its belief that substantive progress still needed to be made, his delegation had decided to abstain in the vote on the draft resolution. It would continue to examine each human rights situation on its own merits and its action with respect to Cuba should be seen as a genuine effort to open the way for further cooperation to strengthen the promotion and protection of human rights there.

111. Mr. WANG Min (China) said that his Government had always stood for cooperation and dialogue in respect of human rights and against confrontation. It was regrettable, therefore, that the same old draft resolution had once again been submitted, as it ran counter to the spirit of strengthened cooperation. The Cuban Government and people had withstood severe outside pressure and had remained steadfast in their desire for self-determination and independence. The Commission should have paid tribute to their efforts to implement international human rights instruments.

112. His delegation would vote against the draft resolution.

113. Mr. PEREZ OTERMIA (Uruguay) said that his delegation had decided to abstain from the vote in recognition of the significant progress made in the situation of human rights in Cuba. Its policy had been and would continue to be to build bridges when it sensed that there was a desire to seek solutions. That approach, it believed, rather than mere condemnation, was more conducive to progress.

114. Mr. AMAT FORES (Cuba) said that the exercise of voting on a draft resolution against Cuba was clearly nothing but a political manipulation by the United States of America. The Commission could be spared that exercise if the United States did not need to justify its aggressive and criminal policy. The economic war it was waging against his country was the only gross, systematic and massive violation of the human rights of the Cuban people.

115. The United States, perpetrator of successive military invasions and occupations of Cuba, was shamelessly accusing his country of violating human rights while terrorist actions against Cuba had been perpetrated from United States territory with absolute impunity. The United States had always upheld the most brutal dictatorships and had long supported the apartheid regime. It consistently requested roll-call votes when Israel was to be condemned for gross and systematic violations of human rights in the Arab territories it had forcefully occupied. It had never been reluctant to oppose resolutions on economic, social and cultural rights.

116. For all those reasons, his delegation greatly appreciated those who, in spite of their ideological disagreements with its form of Government, had not been coerced into sponsoring the outrageous draft resolution, and recognized the courage of those who would cast their votes against it.

117. Cuba would never accept that selective, discriminatory and unfair exercise and would never accept a special rapporteur, even if masked as neutral and independent. In defence of its sovereignty, its democracy and of the human rights it upheld, Cuba would vote against the draft resolution.

118. At the request of the representative of Cuba, a vote was taken by roll-call on the draft resolution.

119. Sri Lanka, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Canada, Czech Republic, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Luxembourg, Poland, Republic of Korea, United Kingdom of Great Britain and Northern Ireland, United States of America

Against: Belarus, Bhutan, Cape Verde, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Indonesia, Malaysia, Mali, Mozambique, Pakistan, Russian Federation, Rwanda, South Africa, Sudan, Uganda

Abstaining: Bangladesh, Botswana, Brazil, Chile, Ecuador, Guatemala, Madagascar, Mexico, Morocco, Nepal, Peru, Philippines, Senegal, Sri Lanka, Tunisia, Ukraine, Uruguay, Venezuela

120. The draft resolution was rejected by 19 votes to 16, with 18 abstentions.

The meeting rose at 1.15 p.m.